



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 17, 1997

Ms. Joni M. Vollman
Assistant General Counsel
Office of the Harris County District Attorney
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR97-2498

Dear Ms. Vollman:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Texas Open Records Act. Your request was assigned ID# 110129.

The Office of the Harris County District Attorney (the "district attorney") received a request for all of the district attorney's files and records pertaining to its prosecution of Robert Coulson in *State of Texas v. Robert O. Coulson*, Cause No. 9400472. The requestor stated that this request encompasses "all reports, notes, memos, records, offense reports, and witness reports" held by the district attorney. You submitted to this office a representative sample of documents responsive to the request.¹ You assert that some of the information at issue is made confidential by sections 552.101, 552.102, 552.103, 552.107, 552.108 and 552.114 of the Government Code. We have reviewed the documents submitted and have considered the exceptions you raised.

Initially, we note that documents filed with a court are generally considered to be public. *See Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992); *see also* Open Records Decision No. 287 (1981). However, documents that are protected by court order may not be released. *See* Gov't Code § 552.107(2).

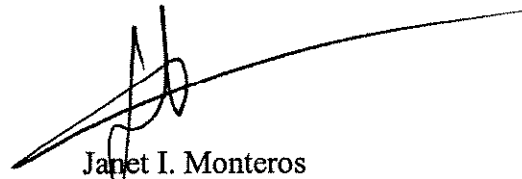
Section 552.103(a) excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. In the instant case, you assert that litigation is pending as the case is in post conviction litigation, consequently section 552.103 is applicable to the documents at issue in the instant request.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision.³ This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref: ID# 110129

Enclosures: Submitted documents

cc: Mr. J. Gary Hart
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(w/o enclosures)

²We note, however, that although the applicability of section 552.103(a) ends once the litigation has been concluded, we observe that some of the information submitted to this office for review is deemed confidential by statute, the release of which may constitute a criminal offense. See Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982); Gov't Code section 552.352.

³As we address your arguments under section 552.103, we need not address the other exceptions raised.